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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,346	12/07/2000	Robert S. Hoblit	RPS920000097US1	1677
47052	7590	06/22/2006	EXAMINER	
SAWYER LAW GROUP LLP			ZEENDER, FLORIAN M	
PO BOX 51418			ART UNIT	
PALO ALTO, CA 94303			PAPER NUMBER	
			3627	

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,346

Applicant(s)

HOBLIT ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 14-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13 and 41 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 2 is objected to because of the following informalities: In line 3, it appears the terminology, “one or 3 more items” should be ~~one or more items~~. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4-6, and 8-13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the dependent claims, the terminology, “said one or more items” lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

Claims 1-6, 8-13, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagami et al. in view of Lee et al. ‘985.

Kagami et al. disclose or inherently teach the limitations of the claim 1 (see specifically Fig. 2, and Col. 5, lines 6-41); except the reference lacks the specific teaching of the time frame comprising a range of particular times within a particular day, “notifying an interested party” (the reference only teaches giving “advice to modify”; Col. 5, lines 40-41), and adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular item does not exceed a minimum criteria.

Lee et al. teach a system and method whereby demand for individual items is determined and wherein each individual item has a corresponding time frame comprising a range of particular times within a particular day; and further including adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria. (See columns 5-8 and most specifically Col. 6, line 60 through Col. 7, line 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to have the time frame comprise a range of particular times within a particular day and adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular item does not exceed a minimum criteria, in view of Lee et al., in order “to determine the changes in demand for a business item due to a particular identifiable condition” (Lee, Col. 3, lines 28-29) and to “capture rapid fluctuations in demand” (Col. 7, lines 18-19).

Further, it would have been an obvious design choice to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to notify “an interested party”, of the advice to modify the inventory control system in order to provide a manager with the necessary information to act on the advice and hence change the system to improve the system’s future accuracy.

Re claims 2-6 and 8-13: The reference lacks the specific teaching of all of the limitations in the claims, however, these added limitations are well known in the art of inventory control and it would have been an obvious design choice at the time of the invention to modify Kagami et al.

Art Unit: 3627

to include any one of the limitations of claims 2-6 and 8-13 in order to provide certain desired results.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790.

The examiner can normally be reached on Monday-Friday, 8am-5pm. The Examiner's supervisor may be reached at (571) 272-6771. The receptionist's phone number for the Technology center is (571) 272-3600 and the fax number is (571) 273-8300.

F. Zeender
Primary Examiner, A.U. 3627
June 19, 2006

 6/19/06
F. RYAN ZEENDER
PRIMARY EXAMINER